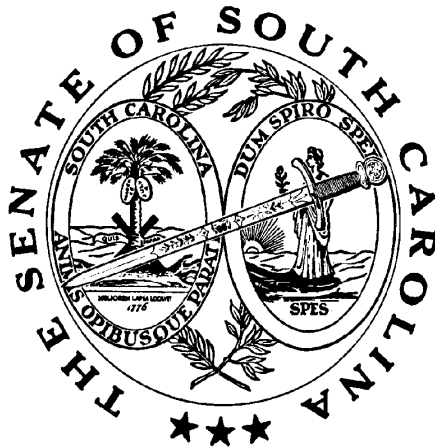


NO. 22

JOURNAL
OF THE
SENATE
OF THE
STATE OF SOUTH CAROLINA



REGULAR SESSION BEGINNING TUESDAY, JANUARY 13, 2009

WEDNESDAY, FEBRUARY 25, 2009

Wednesday, February 25, 2009
(Statewide Session)

~~Indicates Matter Stricken~~
Indicates New Matter

The Senate assembled at 10:45 A.M., the hour to which it stood adjourned, and was called to order by the PRESIDENT.

A quorum being present, the proceedings were opened with a devotion by the Chaplain as follows:

Speaking in the Book of Proverbs, ‘Wisdom’ declares:

“Take my instruction instead of silver, and knowledge rather than choice gold” (Proverbs 8:10)

Join me as we pray, please:

In this State, dear Lord, we are richly blessed with so many fine institutions of higher learning, found from the Piedmont to the Midlands and to the Coast. We thank You for all who are involved with our colleges and universities, O God: trustees, administrators, faculty and staff, and, of course, the students. Such a treasure we have in each of these schools. Help the members of this Senate always to do what must be done to preserve the finest instructional environments possible, that knowledge will ever remain a preeminent priority in South Carolina. In Your blessed name we pray, O Lord.
Amen.

The PRESIDENT called for Petitions, Memorials, Presentments of Grand Juries and such like papers.

Doctor of the Day

Senators O’DELL and NICHOLSON introduced Dr. Stanley Baker of Greenwood, S.C., Doctor of the Day.

Leave of Absence

On motion of Senator CAMPBELL, at 10:57 A.M., Senator CAMPSEN was granted a leave of absence for today.

Leave of Absence

On motion of Senator SHOOPMAN, at 1:35 P.M., Senator MULVANEY was granted a leave of absence until 3:30 P.M. today.

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Leave of Absence

On motion of Senator MALLOY, at 3:45 P.M., Senator PINCKNEY was granted a leave of absence for yesterday and today.

Motion Adopted

On motion of Senator L. MARTIN, with unanimous consent, the Senate agreed that, at the conclusion of the Joint Assembly, the Senate would stand in recess until 1:30 p.m.

Committee to Escort

The PRESIDENT appointed Senators ALEXANDER, REESE, KNOTTS, THOMAS and JACKSON to escort the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, and members of her party to the House of Representatives for the Joint Assembly.

RECESS

At 10:55 A.M., the Senate recessed from business for the purpose of attending the Joint Assembly.

JOINT ASSEMBLY

Chief Justice of the South Carolina Supreme Court

At 11:00 A.M., the Senate appeared in the Hall of the House.

The PRESIDENT of the Senate called the Joint Assembly to order and announced that it had convened under the terms of H. 3474, a Concurrent Resolution adopted by both Houses:

S. 472 -- Senator McConnell: A CONCURRENT RESOLUTION TO INVITE THE CHIEF JUSTICE OF THE SOUTH CAROLINA SUPREME COURT, THE HONORABLE JEAN HOEFER TOAL, TO ADDRESS THE GENERAL ASSEMBLY IN JOINT SESSION ON THE STATE OF THE JUDICIARY AT 11:00 A.M. ON WEDNESDAY, FEBRUARY 25, 2009.

The Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, and members of her party, were escorted to the rostrum by Senators ALEXANDER, REESE, KNOTTS, THOMAS and JACKSON and Representatives Bannister, Sellers, T. Young, Jennings and Horne.

The PRESIDENT introduced the Honorable Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court.

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Chief Justice Toal addressed the Joint Assembly as follows:

2009 State of the Judiciary

Mr. Speaker, Governor, Lieutenant Governor, President *Pro Tempore*, Speaker *Pro Tempore*, Members of the Joint Assembly.

I come with very mixed emotions this morning, as I know many of you do, and I will try to attenuate my remarks so that we all may join our beloved Herb Kirsh as we memorialize the wonderful life of Sue Kirsh. She was as dear a friend as I had when I served here. She loved two things more than life itself – one is her beloved Herb Kirsh and the other is the State of South Carolina. I know we will all want to be of comfort to Herb and the family today. So I will try to get right to it.

We have memorials of our own today. Frances Smith was an old-fashioned gal with very modern views about the court system. She is the first woman to serve as Clerk of the Supreme Court. We lost her this past week. Mrs. Smith was a proud graduate of the University of South Carolina. Unlike many very sedate members of her generation, when you called her telephone, way before answering machines and fancy devices would do this for you, she would scream into the phone a “cock-a -doodle-do” for her Gamecocks. She had a lot to do with the modernization that continues to this day of how we operate courts of South Carolina. When she was here, she was it – she was the administrator of everything. We also memorialize Jim Johnson, a life cut short, who was one of the finest trial judges that ever will serve in South Carolina. You are replacing him this year, but he will never be able to be replaced in our hearts. I also want to mention at this time, my own law clerk, Katie Bockman, daughter of the well-known professor at the University of South Carolina and practicing lawyer, Bob Bockman. Katie worked here in these Chambers as a law clerk before she came to me. In a terrible accident that was not her fault, she lost her life, right as she began her legal career.

We welcome new members of the Court of Appeals, John Geathers and James Lockemy, both already making a wonderful impact on the work of this very important court. We, with a lot of mixed feelings bid adieu to our wonderful senior member of our court, John H. Waller. Johnny Waller has done it all. He has been a practicing judge, a distinguished practicing attorney, a Member of this body, and a Member of the South Carolina Senate. He served in every level of government and brought much wisdom to us as we have been delighted to serve with him as our brother. I am hoping that after some respite

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and attention to the affairs of his children, whom he loves dearly, that he will come and return in his retirement to help us if he can and share his considerable wisdom with ensuing generations of South Carolina judges and lawyers. We also lost to retirement at the end of last year and you have replaced him this year – Appeals Court Judge Ralph King Anderson. What a dynamic tale of service to South Carolina Judge Anderson has brought. He and I served in this Chamber for many years together. He was also a very inventive and vigorous practicing attorney, but his real mark on the profession was as a trial court judge and then as a member of the Court of Appeals. He has still got a lot of work left in him and enthusiasm about the business of law. He has agreed to take over a specialized docket in Florence, which he is managing right now, helping to relieve the backlog on the criminal justice side of the equation in his circuit. He is a wonderful public servant and a guy who continues to give us a lot of help as an active judge in retirement. Other retirees who will be active in retirement include Jimmy Williams. He says “Jean, I didn’t take a breath before you started to assign me all over the place.” He is doing a great job with the criminal docket in Orangeburg. John Milling is in private practice, Buddy Nicholson will continue to serve, and we hope Choppy Patterson will as well. On the Family Bench, Barry Knobel, Tim Brown, and James Spruill are three very experienced judges. You all have done a beautiful job with their replacements who are Ed Dickson, Bubba Griffith, Bill Seals, Jeff Young, Alex Kinlaw, Edgar Long and Titia Verdin. They are all wonderful selections and if they aren’t proof positive that our system works, I would invite the attention of anyone in this nation to meet these very first class judges, who you have selected.

Now, for a picture of where we stand in terms of how you fund your judicial system. These are hard times, but I don’t bring you a message of complaint. I think there is a lot of hope in where we are now, but I want to be realistic with you and tell you where we are now. This slide will show you that when I came to be your Chief in the year 2000-2001, it cost about 46.5 million dollars to run the court system and almost all of it was provided by General Appropriations money. If you look down this chart to the fiscal year in which we are now operating, it costs 60 million dollars just about, to run the department. General appropriations money as I started the fiscal year only accounted for 38.7 million dollars of that fund. All of the rest of it is made up by fines and fees and this next chart shows you what that means in real terms. We started with 38 million dollars in General Appropriations money – the money you put in the General Appropriations Bill. We have

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received almost 9 million dollars in direct cuts plus the termination of our one-time money. So, we started the year with 29 million dollars in General Appropriations money. We get 15 million dollars from fines and fees that have been developed over the years. I don't like that way of funding the system and have talked to you about it before, but there just isn't anything else to do. Don't feel like you're doing something that is unusual. All across the country, state courts are increasingly depending on fines and fees as a significant part of their revenue because your resources are very strapped, in South Carolina, in particular. We continue to get every year 5.5 million dollars in federal funds and that is what I have used to deploy the State Case Management System. You can see the total funds I have available to operate the system – 50 million dollars and it costs 60 million dollars to run the system. That is a nine million dollar deficit, when you take the cuts and the supplemental one-time money and put them together.

What are we doing to address this crisis? We are reducing judge's travel, we are restricting travel for court reporters and law clerks, we are authorizing clerks of court to keep open court sometimes on a skeleton basis if they have local furlough days. Counties are now trying to cut money by having local furlough days. I told them you have got to keep the courts open to at least receive filings and have citizens be able to access records. I can cut court on some of these days. You can have a skeleton staff. You save money and I save money. We are trying that. We have a hiring freeze. I have cut in half the monthly reimbursements for office allowances for judges. Frankly, I did that in recognition of the fact that you are considering some reductions in your own reimbursements, so we have taken that step. At the end of this fiscal year, advance sheets will no longer be available in printing. I would have stopped it now because it is a significant amount of money, but State Printing does the work and their budget depends on receiving that, so it is not a net savings to you as you go into the budget. At the end of this fiscal year I am not asking for any further funds for printing. It will all be available online and that is where it will be accessed.

I understand that the things I have asked for, for years, additional circuit court judges and family court judges, judicial travel and even the money for court technology, is not money that can be brought to the system at this time, given the financial crisis. What other ways are we trying to revamp the way that we do business to try to solve this problem? Let me show you a slide that will show you what our circuit case load is like. We continue to be the highest in filings per judge of any state in the country. That is, we process more cases with less judges

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on the bench than any other state in the country. We also have a very tough record on domestic violence. Our child abuse and neglect filings are spiraling as are our *pro se* and self-representatives increase. It is a very difficult picture in which to have so few judges available. How are we disposing cases? This caseload slide shows you that our criminal case load for the last 3 years continues to go upward, but our pending cases are also increasing. I will tell you in a minute what I have done with the solicitors to try to reengineer the way they call cases, because that is part of what it is going to take to reduce this backlog in General Sessions Court. In Common Pleas, that is your civil side of the docket, our filings are going way up and I can anticipate with foreclosures and everything, these are going to spiral up and our disposition rate is now falling behind. There is a benchmark for cases of 180 days. That is a national benchmark developed by decisions of the United States Supreme Court that says that your benchmark for disposition ought to be 180 days. Now realize that this is an average and in some cases it would take a lot longer and in other cases, a lot less. I have no circuits that are hitting that benchmark in General Sessions Criminal Court. I only have one circuit that is hitting that benchmark in Common Pleas and only 2 in Family Court, out of the 16 circuits we have in South Carolina. Something has got to give on that figure. I am not satisfied with that and I know you aren't either. So, here are some of the things that we doing to try to improve the efficiency with which we operate, specialized docket management is a part of it.

Solicitors' Differentiated Case Management is a fancy term for trying to get the solicitors to come up with a system that they use all the time and it is standardized about the way they handle their cases. This means that when a case comes in, from the time the arrest warrant is issued, and the time the attorney is appointed, you should have deadlines just like you would have in your private business. If you have a project you are working on, you don't say, well here is the project, in 8 months I hope it is completed. You have benchmarks and deadlines that have to be met to move that project along. The same ought to be true for criminal cases. The solicitors control the docket in South Carolina. We are the only state in the union where that is done, but they can control the docket and run it in a decent way, if they adhere to some kind of business management plan for how they do it. They have all signed an order with me agreeing to manage with deadlines. This means for a death penalty case obviously, your time frames would be different than they would be for running from a blue light. Each case would have a deadline on when the attorney is appointed, when the

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discovery information is given to the defendant, when an offer of a plea is made, if one is going to be made, when motions are heard and appearances are made, when the attorney has the opportunity to accept or reject the plea offer, and when the case is scheduled for trial. That is the only way we are going to start managing this docket. When it is not managed that way, a lot of people sit in jails, your counties scream about that because these people are their jails, on the county's nickel, being housed until those cases come up for trial. Frankly, it is not enough now to have people stay in jail until the solicitor decides that they have served enough time and then bring them up for trial and plead them for time served. That is a way of managing weaker cases, but the real way to manage is to look at them and be realistic about how to go forward with a case, what kind of plea offer to make, and how to dispose of the cases. We have got to start doing that.

Business Courts is another device for taking sophisticated business disputes, those that are business to business. A lot of them involve intellectual property, ownership issues, and funding issues and need to be put in a special docket that is managed beginning to end. I am experimenting with that in Richland, Greenville, and Charleston. The business community is very encouraging about that. It sends a message to business that it is going to locate in South Carolina, that if you have that kind of dispute, it will be managed and not just linger on a trial docket and never be moved forward.

We are using a lot of alternate dispute resolutions. That is increasingly becoming the way to resolve a lot of cases and it is a good thing. Defense, as well as plaintiff, and Civil cases like that way of resolving disputes and frankly, the bigger cases are now being resolved in that way rather than going to trial. That moves them out of the docket. We are strongly encouraging that and I am trying to use my case management system to develop data on how much that instrument is used so as to be able to tell you more realistically - do I need more judges or can I reengineer this system and use other kinds of processes to push our dockets along? We are going to find that answer out.

Alternate Dispute Resolution is one factor. We are going to get a lot more condemnation cases, if additional money comes to the State of South Carolina for bridge and highway construction. When those cases pend, as for example in Horry County when they built the new flyover to the beach, you can jam up a docket with 150 or 250 condemnation cases and nothing else moves. When that happened in Horry County, I got Ed Cottingham, a retired judge, who has got a lot of good mileage left in him and is very enthusiastic, to manage the whole condemnation

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docket in Horry County. We didn't end up trying but 5 of those cases and all 150 plus were resolved. Again, this is a creative use of ways of managing cases to move them through the docket.

Construction Cases are another example. We are experimenting in Horry, Charleston, and Beaufort where they have got a lot of stucco cases and probably are going to get a lot more construction cases. Bad times give rise to more of those cases. Those cases end up settling on the courthouse steps a lot of times, but getting there is miserable. If you don't keep a judge behind the lawyers, sometimes these cases will involve multiple parties, sometimes 10 or 15 parties to an action, and multiple lawyers. If you don't keep that case managed it just drags out forever. Cliff Newman has agreed for a year to manage the construction case dockets in those counties. That is going to be another way, if it works, that we will use to try to start pulling out cases that can be managed in a different way and moving them forward.

'Access to Justice' for the working poor is going to be a big issue in South Carolina. *Pro se* filings or self-represented filings are up considerably in South Carolina and many people who cannot qualify for legal aid, because they don't have that depressed income level, need a lawyer and can't afford one. How can we make it easier to access the court system? How can we develop forms, how can we develop policies, that don't put the clerks of court or the judges in the business of representing these litigants, but give the litigants a fair ability to take simple disputes and resolve them without the need for a lawyer? That is what the Access to Justice Commission is looking at strongly and I have got some great people from business, from the legal services community, from the private bar, and from public service, who are working on this issue.

Other new initiatives include new guidelines for real estate closings. The subprime market illustrates all the more in my view the wisdom in South Carolina of having lawyer directed closings, but there is a big issue now about unauthorized practice of law and what other para-professionals can do. I know that issue is before some of your committees at the present time. I ask for a task force to look at this issue and say what are the guidelines, what is the lawyer's role, what are other professionals' roles in the process and I hope that we will be able to bring forth some guidelines. They won't be set in stone, they won't be mandated, but they will be some help to those who engage in closings and what needs to be done to protect the consumer.

We also are looking at proposed amendments to court rules in the area of evidence, civil procedure, and criminal procedure. Particularly

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in the evidence area, there has been concern expressed in this body about scientific evidence and expert witnesses. We have held a hearing on this very issue and hope to be able to help your two Judiciary Committees navigate this difficult issue, particularly as it impacts product liability and medical malpractice cases. Stay tuned, we hope to be able to have something to you this year on that issue.

The Access to Justice Commission is hard at work. We had eight regional hearings to discuss with real live citizens what the barriers to being able to access the court system are and work groups have now been established on self-represented litigants that I explained to you as well as some other areas that impact how people can represent themselves in court. That also involves training the judges as to how to respect and facilitate the appearance in court of self-represented people, developing a civil divorce package so that if your divorce does not involve property or custody and involves simple no fault grounds, you have got a package you can use rather than having to engage counsel to get your divorce settled. That has been approved by the various levels of our system that have to look at that and will be on the web shortly.

We are reviewing the appointment of South Carolina lawyers to represent people on a mandatory basis without fee. I don't like having to do that, but the United States Supreme Court requires that not just in criminal matters that would involve incarceration, but also in child abuse and neglect, termination of parental rights, and other things, that defendants are entitled to a lawyer. If you can't afford one, the question is who bears that burden. Right now South Carolina lawyers, by order of the court, are bearing a lot of that burden. I want to see that picture change. I don't think it can change by simply fussing about it or even threatening as some have done. I think it has got to be a partnership between this body and the Bar and hopefully the court system as well. I have asked 'Access to Justice' to take a good hard look at what would be some suggestions in this area. We hope to be able to present those to you this year.

Thank you so much for at the end of the session approving the Sentencing Commission legislation. The Sentencing Commission has been set up. It is having another meeting tomorrow. We are hopeful of getting funding from the PEW Charitable Trust to underwrite this very important effort that addresses consistency in sentencing, lengthy sentencing for violent offenders, but alternatives to incarceration for non-violent standards for parole, bond standards for re-offenders, and the economic impact of our sentencing system. That and more are on the plate of this commission. I think it is very important work. It has a

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lot of financial implications for what you do with the corrections systems and it has a lot of financial implications for what our work force is about. We don't need to have a huge divide between an immense subclass of our population that is housed in penitentiaries for years and years at a time. We need to look at this situation and see what we really are doing societally to protect against the violent, but at the same time try to move our society along in such a way that those who can do something else with their lives rather than sit in the penitentiary, can be productive citizens, can be helped to achieve those goals.

Technology update, as you know, has been a signature issue of my administration as your Chief and the biggest way I have tried to reengineer the system to be more effective. It is funded almost entirely with congressionally mandated award money, but unlike some earmarked programs that fund a couple of gas masks that end up on somebody's shelf forever, this system is a model for the nation. The Department of Justice came to audit us this December and wants to showcase our internet based system to show how a small rural state can use an internet based system that the state owns and runs and puts money back into, from fees that counties spend for the system and how that system can be replicated in other states. We probably receive eight calls a week from area states asking to come and look at this system. I will venture to say without a fair contradiction that there is no other deployment of any automated system in any place in state government that has proceeded as successfully as this one. I say that with all lack of modesty. It is the result of can-do people at the county level. We started from the grassroots in magistrate's offices and in clerks of courts offices and in the poorest counties in the State with the notion of what we can do to empower them with the little resources they have. We have wired poor counties, we supplied them with computers, we supplied them with the software system that we own and that the clerks of court and the judges and lawyers help us update. We provide 24-7 support for this system and it really is a wonderful success story for many counties that limped along on their own with a vendor driven system that they couldn't control and simply spent a lot of money on that they never saw the return for. That system is now 71 percent deployed in South Carolina. The gold counties are the deployed counties. The green are the ones we are in actively now and the next online are the blue. Last year, I reported to you that this system was 47 percent deployed. It is now 71 percent deployed. By the end of this year it will be 81 percent deployed. I hoped to have the system completely

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deployed by the year 2010. That is an immense success story for the people of South Carolina.

I told you about the solicitors and the need to have them manage their system. So here is the status of their system. They came to me when I wanted differentiated case management and said we don't have the software to manage this, we don't have the tools, and we are short of funds to be able to get a system that would run all of our offices. I said I would go get a federal grant for that. You develop a system, I'll get a grant, we'll put it out to get a vendor and move forward. We've done that. The gold counties are those in which that system is now deployed and the green are the ones who signed contracts and in which deployment is taking place now. By the end of 2010, and maybe a little earlier than that, every solicitor's office in the State will manage their General Sessions and Magistrates docket on this case management system, which integrates and interacts and interfaces with our system.

The big thing that I am adding to it that we just signed contracts for, is to develop an interface with SLED, so that judges, prosecutors, and anybody else who needs it, will get up-to-date real time information about rap sheets. When you have a defendant that is ready to be sentenced for a particular matter or when you have a juror you are trying to check out to see if they have got a conviction and ought not to be allowed to serve, or you're trying to check out a witness to see what kind of background the witness may have, it is very onerous to try to access that database at SLED and NCIC – the way we do it now. We are in the modern computer age, why can't we have an interface with our court case management system and with our solicitor's system that does that live real-time that gives you exact up-to-date information.

That is what we are going to have by September. I venture to say this will give better access to not only prosecutors and law enforcement, but also to public defenders and everyone else, the ability to be able to truly manage with accuracy, the multiple offenders who jump from county to county and fall through the cracks. You will have an accurate piece of information in front of you when you go to sentence these folks.

For the good of the order I've just got to take a minute to thank everyone on behalf of the court system in South Carolina, for the House Law Enforcement Criminal Justice subcommittee. Annette Young is the longtime Chair. Gary Simrill has been a member for many years and is joined this year by Representative Joe Neal. The Senate is now called the Senate Constitutional and Administrative subcommittee. Longtime Chair is DAVE THOMAS and JOHN LAND and GREG RYBERG have been members of this subcommittee for many years. I

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can't thank you enough for the understanding reception you have given us when we have explained where we are and what we are doing. We are trying to reengineer to cut the costs. We have saved a little money in carryovers every year. I have been cheap and we are using some of that, but not all of it. We try to make it through these tough times. But when we present our technology systems to the State Bar Convention, Senator Graham was there and this is what he said; "The technology and reengineering efforts of South Carolina's Judicial Department are a model for other jurisdictions across the nation. They are innovative, yet practical. Improve operations today and establish a basis for the future." That is a pretty good endorsement of what we are doing.

I end with this. I always have a reminder of my grandson, Patrick, to close any speech I make. Most particularly when I come home to the place I started in state government, in this very Chamber. I am very optimistic about our court system and our state government. South Carolina has made it through a lot harder times than the times we are going through today. It is going to take decency and compassion and cooperation on the part of all of us to move forward and to be imaginative about what we do with the resources we have. I still say this Joint Assembly is an example to the nation of what it can be like to work in concert and what it can be like if concerns of ideology move aside for a moment and concerns for real people move to the fore. That is what I've heard in every committee I have been to when I talked about what we are trying to do as a court at this time. So, don't let anybody sell you on the idea that what we do as a General Assembly has to be driven by any other consideration than the progress we can make for the citizens of this State. I am confident because I know them well. The leadership of these two bodies and every member is devoted to that goal. On behalf of the many you don't hear, whose faces you never see, and on behalf of the very youngest, like my Patrick, continue the good work and the good effort for the progress of South Carolina. Godspeed.

The purposes of the Joint Assembly having been accomplished, the PRESIDENT declared it adjourned, whereupon the Senate returned to its Chamber and was called to order by the PRESIDENT.

At 11:40 A.M., the Senate resumed.

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RECESS

At 11:42 A.M., by prior motion of Senator McCONNELL, the Senate recessed until 1:30 P.M.

CO-SPONSORS ADDED

The following co-sponsors were added to the respective Bills:

S. 456 Sen. Land
S. 319 Sen. Davis
S. 12 Sen. Ford, Sen. Rankin

AFTERNOON SESSION

The Senate reassembled at 1:40 P.M. and was called to order by the ACTING PRESIDENT, Senator L. MARTIN.

INTRODUCTION OF BILLS AND RESOLUTIONS

The following were introduced:

S. 474 -- Senator L. Martin: A SENATE RESOLUTION TO CONGRATULATE LIBERTY HIGH SCHOOL'S COMPETITIVE CHEER TEAM FOR WINNING THEIR THIRD CONSECUTIVE CLASS AA TITLE, AND TO WISH THEM MUCH CONTINUED SUCCESS.

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The Senate Resolution was adopted.

S. 475 -- Senator L. Martin: A SENATE RESOLUTION TO CONGRATULATE THE PICKENS HIGH SCHOOL LADY BLUE FLAME VARSITY VOLLEYBALL TEAM FOR WINNING THEIR THIRTEENTH STATE CHAMPIONSHIP AND CONTINUING TO DOMINATE SOUTH CAROLINA AAA VOLLEYBALL.

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The Senate Resolution was adopted.

S. 476 -- Senator Cromer: A SENATE RESOLUTION TO HONOR LORETTA PRICE, OF LEXINGTON COUNTY, FOR HER OUTSTANDING COMMUNITY SERVICE, AND TO RECOGNIZE AND COMMEND HER AS AN ARTICULATE SPOKESPERSON FOR THE AFRICAN-AMERICAN COMMUNITY DURING THE CELEBRATION OF BLACK HISTORY MONTH.

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The Senate Resolution was adopted.

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S. 477 -- Senator Cromer: A SENATE RESOLUTION TO COMMEND ALL THE CITIZENS OF NEWBERRY COUNTY AND THE STATE OF SOUTH CAROLINA WHO ARE PARTICIPATING IN THE "RELAY FOR LIFE FOR NEWBERRY COUNTY" TO BE HELD MAY 1-2, 2009, AND TO DECLARE MAY 1-2, 2009, AS NEWBERRY COUNTY RELAY FOR LIFE WEEKEND.

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The Senate Resolution was adopted.

S. 478 -- Senator Reese: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9, CHAPTER 11, TITLE 1 SO AS TO ESTABLISH A STATE HEALTH INSURANCE PLAN FOR NONSTATE EMPLOYEE INDIVIDUALS AND TO PROVIDE THAT EVERY RESIDENT OF SOUTH CAROLINA WHO FILES A STATE TAX RETURN IS ELIGIBLE TO PARTICIPATE IN THE PLAN; TO REQUIRE THE STATE BUDGET AND CONTROL BOARD TO ADMINISTER THE PLAN AND TO ESTABLISH RATES FOR THE PREMIUMS; PREMIUMS PAID INTO THIS PLAN MUST NOT BE COMINGLED WITH STATE EMPLOYEES' HEALTH INSURANCE PREMIUMS, AND TO REQUIRE BOTH PLANS TO OPERATE INDEPENDENTLY OF EACH OTHER; TO AUTHORIZE PARTICIPANTS TO OPT OUT OR IN EACH CALENDAR YEAR; AND TO REQUIRE PARTICIPANTS TO PAY INTO THE SYSTEM THE FIRST YEAR BUT NOT RECEIVE INSURANCE BENEFITS IN ORDER TO COLLECT PREMIUMS AND CREATE AN ESCROW ACCOUNT FROM WHICH TO ADMINISTER THE PROGRAM.

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Read the first time and referred to the Committee on Finance.

S. 479 -- Senator Bryant: A BILL TO AMEND THE 1976 CODE BY ADDING SECTION 5-3-160 TO PROVIDE THAT A MUNICIPALITY MAY NOT REQUIRE ANNEXATION AS A CONDITION PRECEDENT TO PROVIDING UTILITY SERVICES.

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Read the first time and referred to the Committee on Judiciary.

S. 480 -- Senator Verdin: A CONCURRENT RESOLUTION TO URGE CONGRESS TO OPPOSE FEDERAL LEGISLATION THAT

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INTERFERES WITH A STATE'S ABILITY TO DIRECT THE TRANSPORT OR PROCESSING OF HORSES.

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The Concurrent Resolution was introduced and referred to the Committee on Agriculture and Natural Resources.

S. 481 -- Senators Lourie, Reese and Massey: A JOINT RESOLUTION TO CREATE THE SOUTH CAROLINA CERTIFIED ATHLETIC TRAINERS FOUNDATION TO ENCOURAGE AND ASSIST THE LOCAL SCHOOL DISTRICTS AND SCHOOLS IN ENSURING THAT A CERTIFIED ATHLETIC TRAINER IS ON STAFF AT EACH HIGH SCHOOL AND MIDDLE SCHOOL OF THIS STATE.

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Read the first time and referred to the Committee on Education.

S. 482 -- Senator Jackson: A SENATE RESOLUTION TO RECOGNIZE AND HONOR GLORY COMMUNICATIONS, INC., ON ITS FIFTEENTH YEAR OF PRESENTING THE GOSPEL MUSIC CELEBRATION "FAMILYFEST" AND FOR SPONSORING THE "FUTURE LEADER SCHOLARSHIP FUND" PRESENTATIONS HELD IN CONJUNCTION WITH "FAMILYFEST".

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The Senate Resolution was adopted.

S. 483 -- Senators Rankin, Cleary and McGill: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 9 TO CHAPTER 10, TITLE 4 ENACTING THE "LOCAL OPTION TOURISM DEVELOPMENT FEE ACT" SO AS TO ALLOW A COUNTY IN WHICH AT LEAST FOURTEEN MILLION DOLLARS OF STATE ACCOMMODATIONS TAX REVENUES HAVE BEEN COLLECTED IN A FISCAL YEAR AND A MUNICIPALITY LOCATED IN SUCH A COUNTY TO IMPOSE A FEE NOT TO EXCEED ONE PERCENT OF AMOUNTS SUBJECT TO TAX PURSUANT TO CHAPTER 36, TITLE 12, THE SOUTH CAROLINA SALES AND USE TAX ACT, FOR NOT MORE THAN TEN YEARS, TO PROVIDE THAT THE COUNTY MAY IMPOSE THE FEE BY ORDINANCE IN THE UNINCORPORATED AREAS OF THE COUNTY AND A MUNICIPALITY MAY IMPOSE THE FEE BY ORDINANCE IN

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THE MUNICIPALITY, TO PROVIDE FOR THE ADMINISTRATION OF THE FEE, AND TO PROVIDE USES FOR WHICH THE FEE REVENUE MUST BE APPLIED, INCLUDING TOURISM PROMOTION, PROPERTY TAX ROLLBACK, AND CAPITAL PROJECTS PROMOTING TOURISM CAUSES.

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Read the first time and referred to the Committee on Finance.

S. 484 -- Senator Sheheen: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40-68-95 SO AS TO PROVIDE DE MINIMIS OPERATIONS LICENSURE REQUIREMENTS FOR NONRESIDENT PROFESSIONAL EMPLOYER ORGANIZATIONS AND GROUPS; TO AMEND SECTION 40-68-30, AS AMENDED, RELATING TO LICENSURE REQUIREMENTS FOR PROFESSIONAL EMPLOYER ORGANIZATIONS, SO AS TO INCREASE APPLICATION FEES AND TO REQUIRE AN APPLICATION FEE FOR EACH COMPANY IN A PROFESSIONAL EMPLOYER ORGANIZATION GROUP; TO AMEND SECTION 40-68-40, AS AMENDED, RELATING TO QUALIFICATIONS TO BE LICENSED AS A PROFESSIONAL EMPLOYER ORGANIZATION AND QUALIFICATIONS TO SERVE AS A CONTROLLING PERSON OF A LICENSEE, SO AS TO DELETE A PROVISION AUTHORIZING ISSUANCE OF A NONRESIDENT RESTRICTED LICENSE WITHOUT THE REQUISITE TWO YEARS EXPERIENCE, TO MAKE TECHNICAL CORRECTIONS, AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 40-68-45, RELATING TO CONTINUING EDUCATION, SO AS TO PROVIDE THAT THE HOLDER OF A DE MINIMIS OPERATIONS LICENSE IS NOT REQUIRED TO TAKE CONTINUING EDUCATION, TO REVISE THE DEFINITION OF "KEY PERSONNEL" FOR CERTAIN PURPOSES, AND TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 40-68-50, AS AMENDED, RELATING TO LICENSURE AND RENEWAL FEES, SO AS TO REVISE INITIAL AND RENEWAL LICENSE FEES, TO DELETE NONRESIDENT PROFESSIONAL EMPLOYER ORGANIZATION LICENSE AND RENEWAL LICENSE FEES, AND TO DELETE PROVISIONS STATING MAXIMUM LICENSURE FEES; TO AMEND SECTION 40-68-90, AS AMENDED, RELATING TO RESTRICTED LICENSURE OF NONRESIDENT COMPANIES AND GROUPS, SO AS TO REVISE

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THE REQUIREMENTS FOR A RESTRICTED LICENSE AND TO AUTHORIZE THE DEPARTMENT OF CONSUMER AFFAIRS TO WAIVE THE AUDITED FINANCIAL STATEMENT REQUIREMENT FOR SUCH APPLICANTS; TO AMEND SECTION 40-68-100, AS AMENDED, RELATING TO ISSUANCE AND VALIDITY OF LICENSES, SO AS TO CLARIFY THE INITIAL LICENSURE PERIOD; TO AMEND SECTION 40-68-120, AS AMENDED, RELATING TO REQUIREMENTS FOR VARIOUS BENEFIT PROGRAMS FOR LICENSEES, INCLUDING WORKERS' COMPENSATION PLANS AND HEALTH BENEFIT PLANS, SO AS TO REQUIRE BOTH PLANS TO BE LICENSED WITH THE DEPARTMENT OF INSURANCE; TO AMEND SECTION 40-68-140, AS AMENDED, RELATING TO REQUIREMENTS FOR LICENSEE NAME AND LOCATION CHANGES, SO AS TO ALSO REQUIRE A LICENSEE TO PROVIDE THE DEPARTMENT WITH OTHER CHANGES IN STATUS AS MAY BE REQUIRED; TO AMEND SECTION 40-68-160, AS AMENDED, RELATING TO GROUNDS FOR DISCIPLINARY ACTION AND DISCIPLINARY PROCEDURES, SO AS TO FURTHER SPECIFY PROCEDURES FOR PURSUING A CONTESTED CASE; TO AMEND SECTION 40-68-165, AS AMENDED, RELATING TO THE DEPARTMENT OF CONSUMER AFFAIRS OR THE ATTORNEY GENERAL ENFORCING THIS CHAPTER BY FILING AN ACTION IN THE CIRCUIT COURT, SO AS TO ALSO AUTHORIZE FILING AN ACTION IN THE ADMINISTRATIVE LAW COURT; AND TO AMEND SECTION 12-54-240, AS AMENDED, RELATING TO THE PROHIBITION AGAINST DISCLOSING RECORDS OF AND RETURNS FILED WITH THE DEPARTMENT OF REVENUE AND EXCEPTIONS TO THIS PROHIBITION, SO AS TO INCLUDE IN THIS EXCEPTION THE DISCLOSURE OF INFORMATION RELATED TO PAYROLL WITHHOLDING TAXES TO THE DEPARTMENT OF CONSUMER AFFAIRS IN CONJUNCTION WITH THE DEPARTMENT LICENSING AND REGULATION OF PROFESSIONAL EMPLOYER ORGANIZATIONS.

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Read the first time and referred to the Committee on Labor, Commerce and Industry.

S. 485 -- Senator Lourie: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, SO AS TO ENACT THE

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"CHILDCARE SAFETY ENHANCEMENT ACT OF 2009" BY AMENDING SECTION 63-13-180, RELATING TO THE DEPARTMENT OBTAINING THE ADVICE AND CONSENT OF THE STATE ADVISORY COMMITTEE ON THE PROMULGATION OF REGULATIONS FOR CHILDCARE FACILITIES, TO PROVIDE THAT THE DEPARTMENT SHALL ONLY OBTAIN THE ADVICE OF THE COMMITTEE ON THE PROMULGATION OF REGULATIONS; TO AMEND SECTION 63-13-1210, RELATING TO THE ESTABLISHMENT OF THE STATE ADVISORY COMMITTEE ON THE REGULATION OF CHILDCARE FACILITIES AND THE MEMBERSHIP OF THE COMMITTEE, TO INCREASE THE NUMBER OF PARENT MEMBERS ON THIS COMMITTEE BY ONE AND TO DECREASE THE NUMBER OF OWNERS AND OPERATORS OF CHILDCARE FACILITIES ON THIS COMMITTEE BY ONE; TO AMEND SECTION 63-13-1220, RELATING TO THE DUTIES OF THE STATE ADVISORY COMMITTEE ON THE REGULATION OF CHILDCARE FACILITIES, TO DELETE THE PROVISION THAT NO REGULATION MAY BE PROMULGATED IF DISAPPROVED BY THE COMMITTEE; AND TO ADD SECTION 63-13-220, TO SPECIFY THE TYPE OF VIOLATIONS SUBJECT TO FINES AND THE MAXIMUM FINE AMOUNT FOR EACH TYPE VIOLATION AND TO PROVIDE PROCEDURES FOR NOTIFICATION OF VIOLATIONS, FOR IMPOSITION OF FINES, FOR CORRECTION OF VIOLATIONS, FOR PAYMENT OF FINES, AND FOR APPEALING FINES.

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Read the first time and referred to the Committee on Judiciary.

S. 486 -- Senators Peeler and Alexander: A BILL TO AMEND SECTION 44-20-210, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE OBSOLETE LANGUAGE; TO AMEND SECTION 44-20-220, RELATING TO THE PROMULGATION OF REGULATIONS BY THE COMMISSION ON DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION REQUIRING THE COMMISSION TO CONSULT WITH THE ADVISORY COMMITTEE OF THE DIVISION TO WHICH THE REGULATIONS APPLY; TO AMEND SECTION 44-20-230, RELATING TO THE RESPONSIBILITIES OF THE DIRECTOR OF

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THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION AUTHORIZING THE DIRECTOR TO APPOINT AND REMOVE EMPLOYEES OF THE DEPARTMENT; TO AMEND SECTION 44-20-240, RELATING TO THE CREATION AND RESPONSIBILITIES OF THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, SO AS TO DELETE THE PROVISION TRANSFERRING THE RESPONSIBILITY FOR AUTISTIC SERVICES FROM THE DEPARTMENT OF MENTAL HEALTH TO THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS; TO AMEND SECTION 44-20-350, RELATING TO AUTHORIZING THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS TO ESTABLISH CHARGES FOR SERVICES IN REGULATION, SO AS TO REQUIRE THESE CHARGES TO BE ESTABLISHED IN REGULATION; TO AMEND SECTION 44-20-430, RELATING TO THE DIRECTOR CARRYING OUT CERTAIN RESPONSIBILITIES SUBJECT TO POLICIES ADOPTED BY THE COMMISSION, SO AS TO PROVIDE THAT CARRYING OUT THESE RESPONSIBILITIES IS SUBJECT TO REGULATIONS PROMULGATED BY THE DEPARTMENT; TO AMEND SECTION 44-7-260, AS AMENDED, RELATING TO FACILITIES REQUIRED TO BE LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL AND FACILITIES THAT ARE EXEMPT FROM SUCH LICENSURE, SO AS TO REQUIRE LICENSURE FOR COMMUNITY-BASED HOUSING AND DAY PROGRAMS OPERATED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS AND TO REMOVE COMMUNITY-BASED HOUSING SPONSORED, LICENSED, OR CERTIFIED BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS FROM THOSE FACILITIES THAT ARE EXEMPT FROM LICENSURE; TO AMEND ARTICLE 23, CHAPTER 7, TITLE 44, RELATING TO CRIMINAL RECORDS CHECKS OF DIRECT CARE STAFF, SO AS TO FURTHER SPECIFY THE CRIMINAL RECORDS CHECKS THAT MUST BE CONDUCTED ON DIRECT CARE STAFF, TO PROVIDE THAT A DIRECT CARE ENTITY INCLUDES A DAY PROGRAM OPERATED BY THE DEPARTMENT OF MENTAL HEALTH OR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS, TO DELETE PROVISIONS REQUIRING DIRECT CAREGIVERS TO VERIFY RESIDENCY FOR THE TWELVE MONTHS PRECEDING APPLYING FOR EMPLOYMENT, TO DELETE

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PROVISIONS AUTHORIZING PRIVATE BUSINESSES, ORGANIZATIONS, OR ASSOCIATIONS TO CONDUCT CRIMINAL HISTORY BACKGROUND CHECKS REQUIRED BY THIS ARTICLE, AND TO DELETE PROVISIONS RELATING TO CERTAIN FINGERPRINT FORMS AND PROCEDURES; AND TO REPEAL SECTION 40-20-225 RELATING TO CONSUMER ADVISORY BOARDS FOR THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS' MENTAL RETARDATION, AUTISM, AND HEAD AND SPINAL CORD INJURY DIVISIONS AND ARTICLE 5, CHAPTER 20, TITLE 44 RELATING TO THE LICENSURE AND REGULATION OF FACILITIES AND PROGRAMS BY THE DEPARTMENT OF DISABILITIES AND SPECIAL NEEDS.

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Read the first time and referred to the Committee on Medical Affairs.

S. 487 -- Senators Bright and Reese: A BILL TO AMEND ACT 612 OF 1984, RELATING TO THE METHOD OF CONDUCTING ELECTIONS FOR MEMBERS OF THE SCHOOL DISTRICT BOARDS OF TRUSTEES IN SPARTANBURG COUNTY, TO REDUCE THE NUMBER OF QUALIFIED ELECTORS THAT MUST SIGN A PETITION FOR A PERSON TO PLACE HIS NAME AS A CANDIDATE ON THE BALLOT.

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Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 3575 -- Reps. Hearn, Barfield, Hardwick, Clemmons, Edge and Viers: A BILL TO AMEND ACT 287 OF 1989, AS AMENDED, RELATING TO THE MEMBERSHIP OF THE HORRY COUNTY BOARD OF EDUCATION, SO AS TO PROVIDE THAT THE TERM OF OFFICE OF A NEWLY ELECTED MEMBER OF THE HORRY COUNTY BOARD OF EDUCATION MUST COMMENCE UPON THE DATE OF THE FIRST MEETING OF THE BOARD IN JANUARY FOLLOWING THE NOVEMBER ELECTION.

Read the first time and ordered placed on the Local and Uncontested Calendar.

H. 3583 -- Reps. Funderburk, Lucas and Gunn: A JOINT RESOLUTION TO PROVIDE THAT THE SCHOOL DAY MISSED

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ON FEBRUARY 4, 2009, BY THE STUDENTS OF MIDWAY ELEMENTARY, BETHUNE ELEMENTARY, MOUNT PISGAH ELEMENTARY, BARON DEKALB ELEMENTARY, NORTH CENTRAL MIDDLE, AND NORTH CENTRAL HIGH SCHOOLS WHEN THE SCHOOLS WERE CLOSED DUE TO SNOW ARE EXEMPT FROM THE MAKE-UP REQUIREMENT THAT FULL SCHOOL DAYS MISSED DUE TO SNOW, EXTREME WEATHER, OR OTHER DISRUPTIONS BE MADE UP.

Read the first time and referred to the Committee on Education.

H. 3593 -- Rep. G. A. Brown: A CONCURRENT RESOLUTION TO EXPRESS THE PROFOUND SORROW OF THE MEMBERS OF THE SOUTH CAROLINA GENERAL ASSEMBLY UPON THE PASSING OF ISAAC JOE, JR., OF COLUMBIA, MARYLAND, AND TO EXTEND THE DEEPEST SYMPATHY TO HIS FAMILY AND MANY FRIENDS.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3597 -- Reps. G. R. Smith, Bedingfield, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Funderburk, Gambrell, Gilliard, Govan, Gullick, Gunn, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Lucas, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE BOB SHUMAKER, OF GREENVILLE COUNTY, AUTHOR OF "THE SCHMOONEY TRILOGIES", A CHILDREN'S BOOK SERIES FEATURING A LOVEABLE MAIN CHARACTER KNOWN AS THE SCHMOONEY WHO LEADS CHILDREN ON REMARKABLE

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ADVENTURES, TO COMMEND HIM FOR HIS DEDICATION TO IMPROVING READING SKILLS AND LITERACY ACROSS THE PALMETTO STATE, AND TO DECLARE THE SCHMOONEY THE HONORARY MASCOT FOR LITERACY IN SOUTH CAROLINA FOR 2009-2010.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3598 -- Reps. Funderburk, Lucas, Gunn, Agnew, Alexander, Allen, Allison, Anderson, Anthony, Bales, Ballentine, Bannister, Barfield, Battle, Bedingfield, Bingham, Bowen, Bowers, Brady, Branham, Brantley, G. A. Brown, H. B. Brown, R. L. Brown, Cato, Chalk, Clemmons, Clyburn, Cobb-Hunter, Cole, Cooper, Crawford, Daning, Delleney, Dillard, Duncan, Edge, Erickson, Forrester, Frye, Gambrell, Gilliard, Govan, Gullick, Haley, Hamilton, Hardwick, Harrell, Harrison, Hart, Harvin, Hayes, Hearn, Herbkersman, Hiott, Hodges, Horne, Hosey, Howard, Huggins, Hutto, Jefferson, Jennings, Kelly, Kennedy, King, Kirsh, Knight, Limehouse, Littlejohn, Loftis, Long, Lowe, Mack, McEachern, McLeod, Merrill, Miller, Millwood, Mitchell, Moss, Nanney, J. H. Neal, J. M. Neal, Neilson, Ott, Owens, Parker, Parks, Pinson, E. H. Pitts, M. A. Pitts, Rice, Rutherford, Sandifer, Scott, Sellers, Simrill, Skelton, D. C. Smith, G. M. Smith, G. R. Smith, J. E. Smith, J. R. Smith, Sottile, Spires, Stavrinakis, Stewart, Stringer, Thompson, Toole, Umphlett, Vick, Viers, Weeks, Whipper, White, Whitmire, Williams, Willis, Wylie, A. D. Young and T. R. Young: A CONCURRENT RESOLUTION TO RECOGNIZE AND COMMEND MRS. FRANKYE C. HULL, GUARDIAN AD LITEM FOR KERSHAW COUNTY, FOR HER MANY YEARS OF OUTSTANDING COMMUNITY SERVICE, AND TO CONGRATULATE HER ON BEING NAMED G. F. BETTINESKI CHILD ADVOCATE OF THE YEAR, AN HONOR AWARDED ANNUALLY BY THE NATIONAL COURT APPOINTED SPECIAL ADVOCATE ASSOCIATION.

The Concurrent Resolution was adopted, ordered returned to the House.

H. 3613 -- Rep. Bannister: A CONCURRENT RESOLUTION TO URGE THE PROMOTION OF THE SPORT OF CURLING AS AN OFFICIAL WINTER OLYMPIC SPORT OF SOUTH CAROLINA AND TO APPOINT REPRESENTATIVES OF THE STATE TO

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INVESTIGATE THE DESIGNATION OF CURLING AS AN OFFICIAL WINTER OLYMPIC SPORT OF SOUTH CAROLINA.

The Concurrent Resolution was introduced and referred to the General Committee.

REPORTS OF STANDING COMMITTEES

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 9 -- Senators McConnell, Leventis, Rose, Elliott, Massey, Peeler and Bright: A BILL TO AMEND CHAPTER 52, TITLE 48, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO ENERGY EFFICIENCY, BY ADDING ARTICLE 12, SO AS TO ESTABLISH ENERGY EFFICIENCY AND RENEWABLE ENERGY GOALS FOR STATE GOVERNMENT, TO DIRECT STATE AGENCIES TO PROCURE ENERGY EFFICIENT PRODUCTS, AND TO DIRECT EVERY STATE AGENCY HEAD TO REQUIRE THE REPLACEMENT OF ALL INCANDESCENT LIGHT BULBS WITH COMPACT FLUORESCENT LIGHT BULBS IN EACH STATE AGENCY BY JULY 1, 2011.

Ordered for consideration tomorrow.

S. 9 -- Co-Sponsor Added

On motion of Senator SETZLER, with unanimous consent, the name of Senator SETZLER was added as a co-sponsor.

Senator VERDIN from the Committee on Agriculture and Natural Resources submitted a favorable with amendment report on:

S. 232 -- Senators Ryberg, Hutto and Massey: A BILL TO AMEND SECTION 48-52-210 OF THE 1976 CODE, RELATING TO THE PLAN FOR THE STATE ENERGY POLICY, TO ENCOURAGE THE USE OF CLEAN ENERGY SOURCES; AND TO AMEND ARTICLE 2, CHAPTER 52, TITLE 48, BY ADDING SECTION 48-52-220 TO PROVIDE A DEFINITION FOR "RENEWABLE ENERGY RESOURCES".

Ordered for consideration tomorrow.

PRESIDENT PRESIDES

At 1:46 P.M., the PRESIDENT assumed the Chair.

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THE SENATE PROCEEDED TO A CALL OF THE UNCONTESTED LOCAL AND STATEWIDE CALENDAR.

THIRD READING BILL

The following Bill was read the third time and ordered sent to the House of Representatives:

S. 195 -- Senator McConnell: A BILL TO AMEND SECTION 50-21-870 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE WEARING OF PERSONAL FLOTATION DEVICES ON PERSONAL WATERCRAFTS, SO AS TO PROVIDE THAT A PERSON IS NOT REQUIRED TO WEAR A PERSONAL FLOTATION DEVICE IF THE PERSON IS IN POSSESSION OF A PERSONAL WATERCRAFT THAT IS LOCATED IN THREE FEET OF WATER OR LESS, AND IS ANCHORED, AND THE ENGINE IS NOT OPERATING.

SECOND READING BILLS

The following Bills and Resolutions, having been read the second time, were ordered placed on the Third Reading Calendar:

S. 442 -- Senators Ryberg and Massey: A BILL TO AMEND ACT 503 OF 1982, AS AMENDED, RELATING TO THE AIKEN COUNTY SCHOOL DISTRICT AND THE AIKEN COUNTY BOARD OF EDUCATION, SO AS TO REVISE THE BOARD'S AUTHORITY WITH REGARD TO ADMINISTRATIVE AREA OFFICES AND AREA ADVISORY COUNCILS.

Senators RYBERG and SETZLER asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection and Rule 26B was waived.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

S. 473 -- Senator Leventis: A BILL TO AMEND ACT 387 OF 2008, RELATING TO THE SUMTER COUNTY CONSOLIDATED SCHOOL DISTRICT, SO AS TO PROVIDE THAT A MEMBER OF THE SUMTER CONSOLIDATION TRANSITION COMMITTEE WHO HAS BEEN DISMISSED, SUSPENDED FROM HIS

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POSITION, OR DEMOTED, OR RECEIVES ANY DIRECT OR INDIRECT THREATS IN CONNECTION WITH HIS DECISIONS OR ACTIONS ON BEHALF OF THE COMMITTEE MAY INSTITUTE A NONJURY CIVIL ACTION AGAINST SUMTER SCHOOL DISTRICT 2 OR SUMTER SCHOOL DISTRICT 17 OR THEIR SUCCESSORS FOR CERTAIN DAMAGES.

Senator LEVENTIS asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection and Rule 26B was waived.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

H. 3556 -- Reps. Loftis, Bedingfield, Nanney, Dillard, Cato, Allen, G.R. Smith, Hamilton, Rice, Stringer, Willis and Wylie: A BILL TO CHANGE THE NAME OF THE WESTERN CAROLINA REGIONAL SEWER AUTHORITY TO RENEWABLE WATER RESOURCES.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

S. 245 -- Senators McConnell and Ford: A BILL TO AMEND SECTION 63-3-530 OF THE CODE OF LAWS OF SOUTH CAROLINA, 1976, AS ADDED BY ACT 361 OF 2008, RELATING TO CHILD SUPPORT PAYMENTS, TO PERMIT A FAMILY COURT JUDGE TO MAKE AN ORDER FOR CHILD SUPPORT RUN PAST THE AGE OF EIGHTEEN IF THE CHILD IS ENROLLED AND STILL ATTENDING HIGH SCHOOL, NOT TO EXCEED HIGH SCHOOL GRADUATION OR THE END OF THE SCHOOL YEAR AFTER THE CHILD REACHES NINETEEN YEARS OF AGE, WHICHEVER OCCURS FIRST.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

S. 462 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF LABOR,

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LICENSING AND REGULATION - BOARD OF CHIROPRACTIC EXAMINERS, RELATING TO APPLICATION, RENEWAL AND CONTINUING EDUCATION, DESIGNATED AS REGULATION DOCUMENT NUMBER 3206, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Resolution.

**AMENDED, PREVIOUSLY PROPOSED AMENDMENT
WITHDRAWN, READ THE SECOND TIME**

S. 132 -- Senators Sheheen and Ford: A BILL TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 39-5-175 SO AS TO PROVIDE THAT A LENDER WHO DELIVERS AN UNSOLICITED CHECK TO A PERSON MUST DISCLOSE THAT THE CHECK SECURES A LOAN, THE TERMS OF THE LOAN, AND NOTICE THAT BY NEGOTIATING THE CHECK THE RECIPIENT HAS ENTERED INTO A LOAN AGREEMENT, TO PROVIDE PROTECTION AND RECOURSE FOR INTENDED PAYEES IF AN UNSOLICITED CHECK IS CASHED FRAUDULENTLY, AND TO PROVIDE THAT A VIOLATION OF THIS SECTION IS AN UNFAIR TRADE PRACTICE AND SUBJECT TO APPROPRIATE PENALTIES AND ENFORCEMENT.

The Senate proceeded to a consideration of the Bill, the question being the adoption of previously proposed amendment by Senators FORD and KNOTTS.

Senators L. MARTIN and HAYES proposed the following amendment (JUD0132.006), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting the following:

/ SECTION 1. Article 1, Chapter 5, Title 39 of the 1976 Code is amended by adding:

“Section 39-5-175 (A) For purposes of this section:

(1) ‘Check’ means a demand draft drawn on or payable through an office of a depository institution located in the United States, which has imprinted on it the account holder's name and the depository institution's name, location, and routing number.

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(2) 'Unsolicited check' means a check mailed or otherwise delivered to a person from a person, firm, or corporation engaged in lending money, which is made payable to the recipient and which, upon negotiation, creates a loan and obligates the recipient to repay the amount of the check plus interest and fees.

(B) It is an unfair trade practice pursuant to Section 39-5-20 for a person, firm, or corporation engaged in lending money to deliver to a person an unsolicited check made payable to the recipient which, upon negotiation, obligates the recipient to repay the amount of the check plus interest and fees.

(C) The provisions of this section do not apply to a transaction in which a person has submitted an application or requested an extension of credit from the lender before receiving the check or instrument, or if the lender has an existing account relationship with the person.

(D) A violation of this section is an unfair trade practice pursuant to Chapter 5 of Title 39 and is subject to all of the enforcement and penalty provisions of an unfair trade practice pursuant to this chapter."

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect one hundred eighty days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator L. MARTIN explained the amendment.

The amendment was adopted.

Senators FORD and KNOTTS proposed the following amendment (JUD0132.004), which was withdrawn:

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Amend the bill, as and if amended, by striking the bill in its entirety and inserting the following:

/ A BILL

TO AMEND CHAPTER 13, TITLE 16, CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 16-13-475 SO AS TO CREATE THE CRIME OF SENDING UNSOLICITED CHECKS FOR THE PURPOSE OF CREATING UNSOLICITED OR UNREQUESTED LOANS, TO PROVIDE THAT A VIOLATION IS A FELONY, AND TO PROVIDE FOR A MANDATORY MINIMUM PENALTY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 1, Chapter 13, Title 16 is amended by adding:

“Section 16-13-475. (A) For purposes of this section:

(1) ‘Check’ means a demand draft drawn on or payable through an office of a depository institution located in the United States, which has imprinted on it the account holder's name and the depository institution's name, location, and routing number.

(2) ‘Unsolicited check’ means a check mailed or otherwise delivered to a person from a person, firm, or corporation engaged in lending money, which is made payable to the recipient and which, upon negotiation, creates a loan and obligates the recipient to repay the amount of the check plus interest and fees.

(B) It is unlawful for a person, firm, or corporation to engage in the business of sending unsolicited checks to persons for the purpose of making a loan.

(C) The provisions of this section do not apply to a transaction in which a person has submitted an application or requested an extension of credit from the lender before receiving the check or instrument, or if the lender has an existing account relationship with the person.

(D) A person, firm, or corporation that violates this section is guilty of:

(1) for a first offense, a misdemeanor and, upon conviction, must be fined not less than five hundred dollars but not more than one thousand dollars or imprisoned not less than thirty days, or both;

(2) for a second offense, a misdemeanor and, upon conviction, must be fined not less than one thousand dollars but not more than three thousand dollars or imprisoned not less than one year but not more than five years, or both;

(3) for a third or subsequent offense, a felony and, upon conviction, must be fined not less than one thousand five hundred

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dollars but not more than five thousand dollars or imprisoned not less than eighteen months but not more than five years, or both.”

SECTION 2. The repeal or amendment by this act of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 3. This act takes effect one hundred-eighty days after approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator KNOTTS asked unanimous consent to withdraw the previously proposed amendment.

There was no objection.

The amendment was withdrawn.

There being no further amendments, the question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 31; Nays 6

AYES

| | | |
|-------------------|------------|-------------------|
| Alexander | Anderson | Bright |
| Campbell | Cleary | Coleman |
| Cromer | Davis | Elliott |
| Fair | Grooms | Jackson |
| Knotts | Leatherman | Leventis |
| Lourie | Malloy | <i>Martin, L.</i> |
| <i>Martin, S.</i> | Massey | McGill |
| Nicholson | O'Dell | Peeler |

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| | | |
|----------|---------|----------|
| Rankin | Reese | Scott |
| Setzler | Sheheen | Shoopman |
| Williams | | |

Total--31

NAYS

| | | |
|-----------|---------|--------|
| Bryant | Courson | Hutto |
| McConnell | Ryberg | Verdin |

Total--6

The Bill was read the second time, passed and ordered to a third reading.

AMENDED, READ THE SECOND TIME

S. 103 -- Senators Grooms, Campsen and Campbell: A BILL TO AMEND SECTION 57-5-10 OF THE 1976 CODE, RELATING TO THE GENERAL COMPOSITION OF THE STATE HIGHWAY SYSTEM, TO PROVIDE THAT ALL HIGHWAYS IN THE STATE HIGHWAY SYSTEM MUST BE BUILT ACCORDING TO STATE STANDARDS; TO AMEND SECTION 57-5-70, RELATING TO ADDITIONS TO THE STATE HIGHWAY SECONDARY SYSTEM, TO ALLOW THE DEPARTMENT OF TRANSPORTATION TO ADD COUNTY AND MUNICIPAL ROADS TO THE STATE HIGHWAY SYSTEM WHEN NECESSARY FOR THE INTERCONNECTIVITY OF THE STATE HIGHWAY SYSTEM; TO AMEND SECTION 57-5-80, RELATING TO THE DELETION AND REMOVAL OF ROADS FROM THE STATE HIGHWAY SECONDARY SYSTEM, TO PROVIDE FOR THE REMOVAL OF ROADS FROM THE STATE HIGHWAY SYSTEM WHEN A COUNTY, MUNICIPALITY, SCHOOL, OR OTHER GOVERNMENTAL AGENCY AGREES TO ACCEPT THE ROAD INTO ITS OWN HIGHWAY SYSTEM; AND TO REPEAL SECTION 57-5-90, RELATING TO BELT LINES AND SPURS.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator GROOMS proposed the following amendment (103R002.LKG), which was adopted:

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Amend the bill as and if amended, page 2, by striking SECTION 2 in its entirety and inserting:

/ SECTION 2. A. Section 57-5-70 of the 1976 Code is amended to read:

“Section 57-5-70. The department ~~shall~~ may take over and accept as a part of the state highway secondary system ~~the roads remaining in the various county or municipal road systems which have been maintained by the respective counties, or so much mileage thereof as the availability of funds for construction of secondary state highways in a county may justify; provided, that municipal streets which are extensions of state highways may be added to the state highway secondary system in lieu of an equal mileage of county roads. that the department determines are necessary for the interconnectivity of the state highway system.~~ The roads ~~to be~~ placed in the state highway system ~~hereunder~~ pursuant to this section shall be selected by the department with the consent of the county or municipality and a majority of the county’s legislative delegation. Maintenance jurisdiction by the department of roads added to the state highway secondary system pursuant to the provisions of this section shall not commence until construction to state highway standards ~~shall have started~~ has been completed.”

B. If any part of Section 57-5-70 is held invalid, unenforceable or unconstitutional, then the entire section will be invalid./

Renumber sections to conform.

Amend title to conform.

Senator GROOMS explained the amendment.

The amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

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COMMITTEE AMENDMENT ADOPTED

READ THE SECOND TIME

S. 317 -- Senator Fair: A JOINT RESOLUTION TO SUSPEND THE PROVISIONS CONTAINED IN ACT 295 OF 2008, RELATING TO DENTAL TECHNOLOGICAL WORK, UNTIL JANUARY 1, 2010.

The Senate proceeded to a consideration of the Joint Resolution, the question being the adoption of the amendment proposed by the Committee on Medical Affairs.

The Committee on Medical Affairs proposed the following amendment (S-317 AMENDMENT1), which was adopted:

Amend the joint resolution as and if amended, by striking SECTION 1 in its entirety and inserting:

/ SECTION 1. The provisions contained in Act 295 of 2008, relating to dental technological work, are suspended until July 1, 2010./

Renumber sections to conform.

Amend title to conform.

Senator FAIR explained the committee amendment.

The committee amendment was adopted.

There being no further amendments, the Bill was read the second time, passed and ordered to a third reading.

Recorded Vote

Senators RYBERG and BRYANT desired to be recorded as voting in favor of the second reading of the Bill.

CARRIED OVER

S. 461 -- Medical Affairs Committee: A JOINT RESOLUTION TO APPROVE REGULATIONS OF THE DEPARTMENT OF CONSUMER AFFAIRS, RELATING TO LICENSING STANDARDS FOR CONTINUING CARE RETIREMENT COMMUNITIES, DESIGNATED AS REGULATION DOCUMENT NUMBER 3204, PURSUANT TO THE PROVISIONS OF ARTICLE 1, CHAPTER 23, TITLE 1 OF THE 1976 CODE.

On motion of Senator MASSEY, the Joint Resolution was carried over.

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AMENDED, CARRIED OVER

S. 191 -- Senators McConnell, Malloy, Campsen, Sheheen, Ford, Rose, Campbell and Knotts: A BILL TO ENACT THE SOUTH CAROLINA REDUCTION OF RECIDIVISM ACT OF 2009, TO PROVIDE LAW ENFORCEMENT OFFICERS WITH ADDITIONAL AUTHORITY REDUCE RECIDIVISM RATES, APPREHEND CRIMINAL AND PROTECT POTENTIAL VICTIMS FROM CRIMINAL ENTERPRISES; TO PROVIDE THAT YOUTHFUL OFFENDERS AND OTHER INMATES MUST AGREE TO BE SUBJECT TO SEARCH OR SEIZURE WITH OR WITHOUT A SEARCH WARRANT AND WITH OR WITHOUT CAUSE AS A CONDITION OF RELEASE, SUPERVISED FURLOUGH, OR PAROLE. (ABBREVIATED TITLE)

Senator McCONNELL asked unanimous consent to take the Bill up for immediate consideration.

There was no objection.

The Senate proceeded to a consideration of the Bill, the question being the second reading of the Bill.

Senator McCONNELL asked unanimous consent to make a motion to take up further amendments pursuant to the provisions of Rule 26B.

There was no objection and Rule 26B was waived.

Senators McCONNELL and SCOTT proposed the following amendment (JUD0191.005), which was adopted:

Amend the bill as and if amended, by striking all after the enacting words and inserting the following:

/ SECTION 1. This act may be cited as the "South Carolina Reduction of Recidivism Act of 2009". It is the intent of the General Assembly of South Carolina to provide law enforcement officers with the statutory authority to reduce recidivism rates of probationers and parolees, apprehend criminals, and protect potential victims from criminal enterprises.

SECTION 2. Section 63-19-1820(A)(1) of the 1976 Code is amended to read:

"(A)(1) The Board of Juvenile Parole shall meet monthly and at other times as may be necessary to review the records and progress of juveniles committed to the custody of the Department of Juvenile Justice for the purpose of deciding the release or revocation of release of these juveniles. The board shall make periodic inspections, at least

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quarterly, of the records of these juveniles and may issue temporary and final discharges or release these juveniles conditionally and prescribe conditions for release into aftercare. Before a juvenile is conditionally released, the juvenile must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the juvenile's person, any vehicle the juvenile owns or drives, and any of the juvenile's possessions by: (1) the juvenile's aftercare counselor; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (3) any other law enforcement officer. The residence of the juvenile shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the juvenile must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A juvenile must not be conditionally released by the parole board if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this subitem shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation."

SECTION 3. Section 63-19-1850(A) of the 1976 Code is amended to read:

“(A) A juvenile who shall have been conditionally released from a correctional facility shall remain under the authority of the releasing entity until the expiration of the specified term imposed in the juvenile's conditional aftercare release. The specified period of conditional release may expire before but not after the twenty-first birthday of the juvenile. Each juvenile conditionally released is subject to the conditions and restrictions of the release and may at any time on the order of the releasing entity be returned to the custody of a correctional institution for violation of aftercare rules or conditions of release. The conditions of release must include the requirement that the juvenile parolee must permit the search or seizure, with or without a

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search warrant, with or without cause, of the juvenile parolee's person, any vehicle the juvenile parolee owns or drives, and any of the juvenile parolee's possessions by: (1) his aftercare counselor; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (3) any other law enforcement officer. The residence of the juvenile parolee shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions. A juvenile parolee must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation."

SECTION 4. Section 24-19-110 of the 1976 Code is amended to read:

"Section 24-19-110. The division may at any time after reasonable notice to the director release conditionally under supervision a committed youthful offender. Before a youthful offender may be conditionally released, the youthful offender must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the youthful offender's person, any vehicle the youthful offender owns or drives, and any of the youthful offender's possessions by: (1) his supervisory agent; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (3) any other law enforcement officer. The residence of the youthful offender shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the youthful offender must agree in writing that he shall notify the owner of the dwelling where he resides that it

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shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A youthful offender must not be conditionally released by the division if he fails to comply with this provision. When, in the judgment of the director, a committed youthful offender should be released conditionally under supervision, he shall so report and recommend to the division. The conditions of release must include the requirement that the youthful offender must permit the search or seizure, with or without a search warrant, with or without cause, of the youthful offender's person, any vehicle the youthful offender owns or drives, and any of the youthful offender's possessions by: (1) his supervisory agent; (2) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (3) any other law enforcement officer. The youthful offender must permit the search or seizure, with or without a search warrant, based on reasonable suspicions, of his residence, and the youthful offender must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The division may regularly assess a reasonable fee to be paid by the youthful offender who is on conditional release to offset the cost of his supervision.

The division may discharge a committed youthful offender unconditionally at the expiration of one year from the date of conditional release.”

SECTION 5. Section 24-13-710 of the 1976 Code is amended to read:

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“Section 24-13-710. The Department of Corrections and the Department of Probation, Parole, and Pardon Services shall jointly develop the policies, procedures, guidelines, and cooperative agreement for the implementation of a supervised furlough program which permits carefully screened and selected inmates who have served the mandatory minimum sentence as required by law or have not committed a violent crime as defined in Section 16-1-60, a ‘no parole offense’ as defined in Section 24-13-100, the crime of criminal sexual conduct in the third degree as defined in Section 16-3-654, or the crime of committing or attempting a lewd act upon a child under the age of fourteen as defined in Section 16-15-140 to be released on furlough prior to parole eligibility and under the supervision of state probation and parole agents with the privilege of residing in an approved residence and continuing treatment, training, or employment in the community until parole eligibility or expiration of sentence, whichever is earlier.

Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or drives, and any of the inmate’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions, and the inmate must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted supervised furlough if he fails to comply with this provision.

The department and the Department of Probation, Parole, and Pardon Services shall assess a fee sufficient to cover the cost of the participant’s supervision and any other financial obligations incurred because of his participation in the supervised furlough program as provided by this article. The two departments shall jointly develop and approve written guidelines for the program to include, but not be limited to, the selection criteria and process, requirements for supervision, conditions for participation, and removal.

The conditions for participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the offender’s person, any vehicle the offender owns or drives, and any of the offender’s possessions by: (1) any probation agent employed by the Department of Probation,

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Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the offender shall be subject to search or seizure with or without a search warrant, based on reasonable suspicions, and the offender must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The cooperative agreement between the two departments shall specify the responsibilities and authority for implementing and operating the program. Inmates approved and placed on the program must be under the supervision of agents of the Department of Probation, Parole, and Pardon Services who are responsible for ensuring the inmate's compliance with the rules, regulations, and conditions of the program as well as monitoring the inmate's employment and participation in any of the prescribed and authorized community-based correctional programs such as vocational rehabilitation, technical education, and alcohol/drug treatment. Eligibility criteria for the program include, but are not limited to, all of the following requirements:

- (1) maintain a clear disciplinary record for at least six months prior to consideration for placement on the program;
- (2) demonstrate to Department of Corrections' officials a general desire to become a law-abiding member of society;
- (3) satisfy any other reasonable requirements imposed upon him by the Department of Corrections;
- (4) have an identifiable need for and willingness to participate in authorized community-based programs and rehabilitative services;

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(5) have been committed to the State Department of Corrections with a total sentence of five years or less as the first or second adult commitment for a criminal offense for which the inmate received a sentence of one year or more. The Department of Corrections shall notify victims pursuant to Article 15, Chapter 3, Title 16 as well as the sheriff's office of the place to be released before releasing inmates through any supervised furlough program. These requirements do not apply to the crimes referred to in this section."

SECTION 6. Section 24-13-720 of the 1976 Code is amended to read:

"Section 24-13-720. Unless sentenced to life imprisonment, an inmate under the jurisdiction or control of the Department of Corrections who has not been convicted of a violent crime under the provisions of Section 16-1-60 or a 'no parole offense' as defined in Section 24-13-100 may, within six months of the expiration of his sentence, be placed with the program provided for in Section 24-13-710 and is subject to every rule, regulation, and condition of the program. Before an inmate may be released on supervised furlough, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or drives, and any of the inmate's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the inmate must agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted supervised furlough if he fails to comply with this provision.

The conditions for participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or drives, and any of the inmate's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. An inmate must also agree that his residence shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must agree in writing that he shall notify the owner of the dwelling where he resides that it

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shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

No inmate otherwise eligible under the provisions of this section for placement with the program may be so placed unless he has qualified under the selection criteria and process authorized by the provisions of Section 24-13-710. He must also have maintained a clear disciplinary record for at least six months prior to eligibility for placement with the program.”

SECTION 7. Subsections (D) and (E) of Section 24-13-1330 of the 1976 Code are amended to read:

“(D) An applicant may not participate in a program unless he agrees to be bound by all of its terms and conditions and indicates this agreement by signing the following:

‘I accept the foregoing program and agree to be bound by its terms and conditions. I understand that my participation in the program is a privilege that may be revoked at the sole discretion of the director. I understand that I shall complete the entire program successfully to obtain a certificate of earned eligibility upon the completion of the program, and if I do not complete the program successfully, for any reason, I will be transferred to a nonshock incarceration correctional facility to continue service of my sentence.’

Before an inmate may be released on parole, the inmate must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate’s person, any vehicle the inmate owns or drives, and any of the inmate’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any

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other law enforcement officer. The residence of a shock incarceration inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A shock incarceration inmate must not be granted parole release by the department if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

(E) An inmate who has completed a shock incarceration program successfully is eligible to receive a certificate of earned eligibility and must be granted parole release if the inmate has executed the agreements described in subsection (D) of this section. The conditions of parole must include the requirement that the parolee must permit the search or seizure, with or without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or drives, and any of the parolee's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the parolee shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or

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seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.”

SECTION 8. Section 24-21-410 of the 1976 Code is amended to read:

“Section 24-21-410. After conviction or plea for any offense, except a crime punishable by death or life imprisonment, the judge of a court of record with criminal jurisdiction at the time of sentence may suspend the imposition or the execution of a sentence and place the defendant on probation or may impose a fine and also place the defendant on probation. Probation is a form of clemency. Before a defendant may be placed on probation, he must agree in writing to be subject to a search or seizure, with or without a search warrant, based on reasonable suspicions of the defendant’s person, any vehicle the defendant owns or drives, and any of the defendant’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the defendant shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. A defendant must not be placed on probation by the court if he fails to comply with this provision and instead shall be required to serve the suspended portion of the defendant’s sentence.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole

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and Pardon Services to the State Law Enforcement Division for investigation.”

SECTION 9. The first unnumbered paragraph of Section 24-21-430 of the 1976 Code is amended to read:

“Section 24-21-430. The court may impose by order duly entered and may at any time modify the conditions of probation and may include among them any of the following or any other condition not prohibited in this section; however, the conditions imposed must include the requirement that the probationer must permit the search or seizure, with or without a search warrant, based on reasonable suspicions of the probationer’s person, any vehicle the probationer owns or drives, and any of the probationer’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the probationer shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the probationer must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

To effectively supervise probationers, the director shall develop policies and procedures for imposing conditions of supervision on probationers. These conditions may enhance but must not diminish court imposed conditions.”

SECTION 10. Section 24-21-560(B) of the 1976 Code is amended to read:

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“(B) A community supervision program operated by the Department of Probation, Parole, and Pardon Services must last no more than two continuous years. The period of time a prisoner is required to participate in a community supervision program and the individual terms and conditions of a prisoner’s participation shall be at the discretion of the department based upon guidelines developed by the director; however, the conditions of participation must include the requirement that the offender must permit the search or seizure, with or without a search warrant, with or without cause, of the offender’s person, any vehicle the offender owns or drives, and any of the offender’s possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the offender shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and the offender must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this subsection shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

A prisoner participating in a community supervision program must be supervised by a probation agent of the department. The department must determine when a prisoner completes a community supervision program, violates a term of community supervision, fails to participate in a program satisfactorily, or whether a prisoner should appear before the court for revocation of the community supervision program.”

SECTION 11. Section 24-21-640 of the 1976 Code is amended to read:

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“Section 24-21-640. The board must carefully consider the record of the prisoner before, during, and after imprisonment, and no such prisoner may be paroled until it appears to the satisfaction of the board: that the prisoner has shown a disposition to reform; that, in the future he will probably obey the law and lead a correct life; that by his conduct he has merited a lessening of the rigors of his imprisonment; that the interest of society will not be impaired thereby; and, that suitable employment has been secured for him.

Before an inmate may be released on parole, he must agree in writing to be subject to search or seizure, with or without a search warrant, with or without cause, of the inmate's person, any vehicle the inmate owns or drives, and any of the inmate's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the inmate shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions. An inmate must not be granted parole release by the board if he fails to comply with this provision.

A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

The board must establish written, specific criteria for the granting of parole and provisional parole. This criteria must reflect all of the aspects of this section and include a review of a prisoner's disciplinary and other records. The criteria must be made available to all prisoners at the time of their incarceration and the general public. The paroled prisoner must, as often as may be required, render a written report to the board giving that information as may be required by the board which must be confirmed by the person in whose employment the prisoner may be at the time. The board must not grant parole nor is

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parole authorized to any prisoner serving a sentence for a second or subsequent conviction, following a separate sentencing for a prior conviction, for violent crimes as defined in Section 16-1-60. Provided that where more than one included offense shall be committed within a one-day period or pursuant to one continuous course of conduct, such multiple offenses must be treated for purposes of this section as one offense.

Any part or all of a prisoner's in-prison disciplinary records and, with the prisoner's consent, records involving all awards, honors, earned work credits and educational credits, are subject to the Freedom of Information Act as contained in Chapter 4 of Title 30."

SECTION 12. Section 24-21-645 of the 1976 Code is amended to read:

"Section 24-21-645. The board may issue an order authorizing the parole which must be signed either by a majority of its members or by all three members meeting as a parole panel on the case ninety days prior to the effective date of the parole; however, at least two-thirds of the members of the board must authorize and sign orders authorizing parole for persons convicted of a violent crime as defined in Section 16-1-60. A provisional parole order shall include the terms and conditions, if any, to be met by the prisoner during the provisional period and terms and conditions, if any, to be met upon parole.

The conditions of parole must include the requirement that the parolee must permit the search or seizure, with or without a search warrant, with or without cause, of the parolee's person, any vehicle the parolee owns or drives, and any of the parolee's possessions by: (1) any probation agent employed by the Department of Probation, Parole and Pardon Services accompanied by a law enforcement officer; or (2) any other law enforcement officer. The residence of the parolee shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions, and he must also agree in writing that he shall notify the owner of the dwelling where he resides that it shall be subject to search or seizure, with or without a search warrant, based on reasonable suspicions.

By enacting this provision, the General Assembly intends to provide law enforcement with a means of reducing recidivism and does not authorize law enforcement officers to conduct searches for the sole purpose of harassment. A law enforcement officer conducting a search or seizure without a warrant pursuant to this section shall report to the law enforcement agency that employs him all of these searches or seizures, which shall include the name, address, age, gender, and race

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or ethnicity of the person that is the subject of the search or seizure. The law enforcement agency shall submit this information at the end of each month to the Department of Probation, Parole and Pardon Services for review of abuse. A finding of abuse of the use of searches or seizures without a search warrant shall be reported by the Department of Probation, Parole and Pardon Services to the State Law Enforcement Division for investigation.

Upon satisfactory completion of the provisional period, the director or one lawfully acting for him must issue an order which, if accepted by the prisoner, shall provide for his release from custody. However, upon a negative determination of parole, prisoners in confinement for a violent crime as defined in Section 16-1-60 must have their cases reviewed every two years for the purpose of a determination of parole, except that prisoners who are eligible for parole pursuant to Section 16-25-90, and who are subsequently denied parole must have their cases reviewed every twelve months for the purpose of a determination of parole. This section applies retroactively to a prisoner who has had a parole hearing pursuant to Section 16-25-90 prior to the effective date of this act.”

SECTION 13. The repeal or amendment by the provisions of any law, whether temporary or permanent or civil or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act, and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 14. If any section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, item, subitem, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, items, subitems, paragraphs, subparagraphs, sentences, clauses,

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phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 15. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

Senator McCONNELL explained the amendment.

The amendment was adopted.

On motion of Senator McCONNELL, the Bill was carried over, as amended.

THE CALL OF THE UNCONTESTED CALENDAR HAVING BEEN COMPLETED, THE SENATE PROCEEDED TO THE MOTION PERIOD.

MOTION ADOPTED

On motion of Senator L. MARTIN, the Senate agreed to dispense with the Motion Period.

THE SENATE PROCEEDED TO THE INTERRUPTED DEBATE.

**COMMITTEE AMENDMENT AMENDED AND ADOPTED
AMENDED, READ THE SECOND TIME
RETURNED TO THE SPECIAL ORDER CALENDAR**

S. 12 -- Senators Leatherman, Alexander, O'Dell, Cleary, Leventis, Elliott, Lourie, Malloy, Setzler, Ford and Rankin: A BILL TO ESTABLISH THE SOUTH CAROLINA TAXATION REALIGNMENT COMMISSION, TO PROVIDE FOR THE COMMISSION'S MEMBERSHIP, POWERS, DUTIES, AND RESPONSIBILITIES, TO PROVIDE THAT THE COMMISSION MUST CONDUCT A COMPREHENSIVE STUDY OF THE STATE'S TAX SYSTEM AND SUBMIT A REPORT OF ITS RECOMMENDED CHANGES TO FURTHER THE GOAL OF MAINTAINING AND ENHANCING THE STATE AS AN OPTIMUM COMPETITOR IN THE EFFORT TO ATTRACT BUSINESSES AND INDIVIDUALS TO LOCATE, LIVE, WORK, AND INVEST IN THE STATE, AND TO PROVIDE FOR

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**PROCEDURES GOVERNING THE CONSIDERATION OF
LEGISLATION RESULTING FROM THE COMMISSION'S
RECOMMENDATIONS.**

The Senate proceeded to a consideration of the Bill, the question being the adoption of the amendment proposed by the Committee on Finance.

Senator LEATHERMAN spoke on the Bill.

Senator LEATHERMAN asked unanimous consent to make a motion to take up for immediate consideration Amendment No. P-2A.

There was no objection.

Amendment No. P-2A

Senators LEATHERMAN, PEELER, and L. MARTIN proposed the following Amendment P-2A (12FIN010), which was adopted:

Amend the committee amendment, as and if amended, page [12-4], by striking line 7 and inserting:

/ After reviewing the adequacy, equity, and efficiency of the state's revenue structure, the commission's report may recommend that no changes are necessary if it determines that such findings are warranted. Following the report and recommendation required by /

Amend the committee amendment further, as and if amended, pages [12-4] and [12-5], by striking subsections (D) and (E) and inserting:

/ (D) The text of any amending language pursuant to subsection (C)(2) shall be delivered to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly. Should the text of the amending language recommended by the commission be filed as a bill in its entirety, an amendment that seeks to add, delete, or substantively change the bill may only be adopted by a majority of the membership of the respective house of the General Assembly. Additionally, any dispositive action on the bill including, but not limited to, being given second and third reading, concurrence in an amendment, and adoption of a conference report, may only be taken by at least a majority vote of the membership of the respective house of the General Assembly.

(E) Further legislative recommendations made by the commission shall be delivered to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, respectively. /

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Renumber sections to conform.

Amend title to conform.

Senator LEATHERMAN explained the amendment.

ACTING PRESIDENT PRESIDES

At 2:32 P.M., Senator L. MARTIN assumed the Chair.

The amendment was adopted.

Senator SETZLER asked unanimous consent to make a motion to take up Amendment No. P-9 for immediate consideration.

There was no objection.

Amendment No. P-9

Senators SETZLER, KNOTTS, and LEATHERMAN proposed the following Amendment No. P-9 (TAXREAL4), which was adopted:

Amend the Committee Report, as and if amended, in SECTION 1, on page [12-4], by striking line 19 and inserting:

/ limitation, local millages, and fee in lieu of taxes agreements; however, local taxes do not include the exemption of owner-occupied residential property as provided in Section 12-37-220(B)(47). /

Amend the bill as and if amended,

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

The amendment was adopted.

Amendment No. P-1

Senator BRYANT proposed the following Amendment No. P-1 (12R001.KLB), which was laid on the table:

Amend the Committee Report, as and if amended, page [12-4], by inserting after line 22:

/ Any recommendation of the commission must not result in a total net gain in either state or local tax revenue.

The commission must forward its recommendation to the Department of Revenue that must prepare a revenue impact detailing the sources of revenue at the state and local level the commission recommends should be increased or decreased, the projected amount of

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increase or decrease to each source of revenue, and the net gain or loss of total revenue at both the state and local level that would result from the recommendation. The report must be attached to any legislative recommendation made by the commission prior to it being submitted to any member of the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the amendment.

Senator LEVENTIS spoke on the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 20; Nays 19

AYES

| | | |
|-----------|-----------|------------|
| Alexander | Cleary | Coleman |
| Cromer | Ford | Hutto |
| Jackson | Land | Leatherman |
| Leventis | Lourie | Malloy |
| McGill | Nicholson | O'Dell |
| Reese | Scott | Setzler |
| Sheheen | Williams | |

Total--20

NAYS

| | | |
|-------------------|----------|-------------------|
| Bright | Bryant | Campbell |
| Courson | Davis | Elliott |
| Fair | Knotts | <i>Martin, L.</i> |
| <i>Martin, S.</i> | Massey | McConnell |
| Mulvaney | Peeler | Rankin |
| Ryberg | Shoopman | Thomas |
| Verdin | | |

Total--19

The amendment was laid on the table.

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Amendment No. P-3

Senators SETZLER, LEATHERMAN, SHEHEEN and LOURIE proposed the following Amendment No. P-3 (TAXREAL3), which was adopted:

Amend the Committee Report, as and if amended, in SECTION 1, on page [12-3], by striking line 34 and inserting:

/ (2) no later than March 15, 2010, prepare and deliver a /

Amend the Committee Report further, as and if amended, in SECTION 1, on page [12-3], by striking line 27 and inserting:

/ criteria to the General Assembly within three months of the effective /

Renumber sections to conform.

Amend title to conform.

Senator SETZLER explained the amendment.

The amendment was adopted.

Amendment No. P-4

Senator LEATHERMAN proposed the following Amendment No. P-4 (12FIN008), which was adopted:

Amend the committee amendment, as and if amended, page [12-1], by striking line 41 and inserting:

/ or business. Members of the commission must have been a resident of South Carolina since January 1, 1997. /

Amend the committee amendment further, as and if amended, page [12-3], by striking line 9 and inserting:

/ 1997, nor anyone who has not been a resident of South Carolina since January 1, 1997, is eligible to be selected as director. The director shall act as /

Renumber sections to conform.

Amend title to conform.

The amendment was adopted.

Amendment No. P-5

Senator RYBERG proposed the following Amendment No. P-5 (JUD0012.003), which was laid on the table:

Amend the Committee Report as and if amended, page 12-5, by adding the following after line 4:

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/ (F) The members, director and staff of the South Carolina Tax Realignment Commission must maintain a written log of all verbal or written communication with the Governor or his staff about any potential action by the Tax Realignment Commission or one of its members, the director, or its staff related to the execution of its duties prior to or during the preparation and delivery of its report. The log will include the identity of the person or persons involved in the communication, the date and time of the communication, and the reason for the subject matter discussed during the communication. The written log required by this section is a public record for purposes of Section 30-1-10, *et seq.* /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator LEATHERMAN moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 22; Nays 16

AYES

| | | |
|-------------------|-----------|------------|
| Alexander | Anderson | Cromer |
| Ford | Hutto | Jackson |
| Knotts | Land | Leatherman |
| Leventis | Lourie | Malloy |
| <i>Martin, L.</i> | McConnell | McGill |
| Nicholson | O'Dell | Peeler |
| Reese | Scott | Setzler |
| Williams | | |

Total--22

NAYS

| | | |
|----------|-------------------|---------|
| Bright | Bryant | Cleary |
| Courson | Davis | Elliott |
| Fair | <i>Martin, S.</i> | Massey |
| Mulvaney | Rankin | Ryberg |
| Sheheen | Shoopman | Thomas |
| Verdin | | |

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Total--16

The amendment was laid on the table.

Amendment No. P-6

Senator RYBERG proposed the following Amendment No. P-6 (JUD0012.004), which was laid on the table:

Amend the Committee Report as and if amended, page 12-5, by adding the following after line 4:

/ (F) The members, director and staff of the South Carolina Tax Realignment Commission must maintain a written log of all verbal or written communication with a member or staff of the General Assembly, a lobbyist or lobbyist principal, or any state or local public official or staff member about any potential action by the Tax Realignment Commission or one of its members, the director, or its staff related to the execution of its duties prior to or during the preparation and delivery of its report. The log will include the identity of the person making the contact, the date and time of the contact, and the reason for the subject matter discussed during the contact. The written log required by this section is a public record for purposes of Section 30-1-10, *et seq.* /

Renumber sections to conform.

Amend title to conform.

Senator RYBERG explained the amendment.

Senator McCONNELL moved to lay the amendment on the table.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 24; Nays 16

AYES

| | | |
|------------|-------------------|-----------|
| Anderson | Campbell | Cromer |
| Ford | Grooms | Hutto |
| Jackson | Knotts | Land |
| Leatherman | Leventis | Lourie |
| Malloy | <i>Martin, L.</i> | McConnell |
| McGill | Nicholson | O'Dell |
| Peeler | Rankin | Reese |
| Scott | Setzler | Williams |

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Total--24

NAYS

| | | |
|-----------|----------|-------------------|
| Alexander | Bright | Bryant |
| Cleary | Courson | Davis |
| Elliott | Fair | <i>Martin, S.</i> |
| Massey | Mulvaney | Ryberg |
| Sheheen | Shoopman | Thomas |
| Verdin | | |

Total--16

The amendment was laid on the table.

Amendment No. P-7A

Senator BRYANT proposed the following Amendment No. P-7A (12R008.KLB), which was adopted:

Amend the Committee Report, as and if amended, page [12-4], by inserting after line 22:

/ The commission must forward its recommendation to the Board of Economic Advisors that must prepare a revenue impact detailing the sources of revenue at the state and local level the commission recommends should be increased or decreased, the projected amount of increase or decrease to each source of revenue, and the net gain or loss of total revenue at both the state and local level that would result from the recommendation. The report must be attached to any legislative recommendation made by the commission prior to it being submitted to any member of the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Senator BRYANT explained the amendment.

Senator BRYANT moved that the amendment be adopted.

The amendment was adopted.

Amendment No. P-8

Senator SHOOPMAN proposed the following Amendment No. P-8 (MS\7221AHB09), which was adopted:

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Amend the committee amendment, as and if amended, by deleting subsections (D) and (E), as contained SECTION 1, pages 12-4 and 12-5, and inserting:

/ (D) The text of any amending language pursuant to subsection (C)(2) must be delivered to the chairman of the Senate Finance Committee, the chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly.

(E) Further legislative recommendations made by the commission must be delivered to the chairman of the Senate Finance Committee, the chairman of the House Ways and Means Committee, and upon request, to any member of the General Assembly. /

Renumber sections to conform.

Amend title to conform.

Senator SHOOPMAN explained the amendment.

Senator VERDIN spoke on the amendment.

The amendment was adopted.

Amendment No. P-10

Senators DAVIS and SHEHEEN proposed the following Amendment No. P-10 (BBM9195AHB09), which was adopted:

Amend the committee report, as and if amended, by deleting subsection (C)(2)(c), as contained in SECTION 1, page 12-4, lines 5 and 6, and inserting:

/ (c)any fee, fine, license, forfeiture, or Other Funds. /

Renumber sections to conform.

Amend title to conform.

Senator DAVIS explained the amendment.

The amendment was adopted.

The question then was the adoption of the committee amendment, as perfected.

The Committee on Finance proposed the following amendment (12FIN007), which was adopted:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

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/ SECTION 1. (A) There is created the South Carolina Taxation Realignment Commission to be comprised of eleven members appointed as follows:

(1) one member each appointed by the President Pro Tempore of the Senate, the Senate Finance Committee Chairman, the Senate Majority Leader, and the Senate Minority Leader;

(2) one member each appointed by the Speaker of the House, the House Ways and Means Committee Chairman, the House Majority Leader, and the House Minority Leader;

(3) two members appointed by the Governor; and

(4) the Director of the Department of Revenue, to serve ex officio.

Members of the General Assembly may not be appointed to the commission. Members of the commission must have substantial academic or professional experience or specialization in one or more areas of public finance, government budgeting and administration, tax administration, economics, accounting, tax law, or business.

No member of the commission may enter upon his official responsibilities with the commission unless he has filed a statement of economic interests in accordance with the provisions of Article 11, Chapter 13, Title 8, with the State Ethics Commission.

(B) The members of the commission:

(1) must meet as soon as practicable after appointment and organize itself by electing one of its members as chairman and such other officers as the commission may consider necessary. Thereafter, the commission must meet as necessary to fulfill the duties required by this joint resolution at the call of the chairman or by a majority of the members. A quorum consists of six members. The commission may engage or employ staff or consultants as may be necessary and prudent to assist the commission in the performance of its duties and responsibilities. Any staff or consultants must possess an academic background or substantial career experience in one or more fields including, but not limited to, economics, government budgeting and administration, urban and regional economic development, economic forecasting, state and local public finance, or business;

(2) shall serve without compensation, but are allowed the usual per diem and mileage as provided by law for members of boards, commissions, and committees while on official business to be paid by the member's appointing entity. Staffs of the Senate Finance Committee and the House Ways and Means Committee shall be available to assist the commission in its work. Any other expenses

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incurred by the commission shall be paid equally from each respective house's approved account subject to the approval of the respective Operations and Management Committees;

(3) select and employ a staff director and is authorized to select and employ such other staff as may be prudent to assist the commission in the performance of its duties and responsibilities. The staff director shall be chosen solely on the grounds of fitness to perform the duties of the position and must possess:

(a) a Masters Degree from an accredited college or university, or a Baccalaureate Degree from an accredited college or university and have obtained professional experience equivalent to a Masters Degree;

(b) at least five years of experience in a public, private, or governmental position at the managerial level; and

(c) an academic background or substantial career experience in one or more of the following fields:

(i) economics;

(ii) government budgeting and administration;

(iii) urban and regional economic development;

(iv) economic forecasting; or

(v) state and local public finance.

No member of the General Assembly, nor anyone who has been a member of the General Assembly, nor anyone employed by the General Assembly since January 1, 1997, nor anyone who has been a lobbyist, as defined in Section 2-17-10(13), since January 1, 1997, is eligible to be selected as director. The director shall act as secretary for the commission and shall, with the approval of the commission, have authority to contract for experts, consultants, and such other assistance as may be necessary to carry out the duties of the commission. Subject to funding by the General Assembly, the director shall be paid equally from the approved account of each house of the General Assembly, subject to the approval of the respective Operations and Management Committees; and

(4) unless authorized by a further or subsequent enactment, conclude the commission's business and dissolve the commission effective January 1, 2015. The General Assembly may extend the dates by which the commission must submit reports required by this joint resolution.

(C) The duties of the commission shall be to:

(1) develop criteria for assessing the effectiveness of the current tax system structure, as well as the likely systemic impact of any proposed changes effecting tax revenues and report the criteria to the

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General Assembly within six months of the effective date of this joint resolution, provided that all such criteria must be designed with an emphasis on the systemic balance of the state's revenue structure from the standpoint of adequacy, equity, and efficiency and with the goal of maintaining and enhancing the State as an optimum competitor in efforts to attract businesses and individuals to locate, live, work, and invest in the State; and

(2) no later than February 25, 2011, prepare and deliver a report and recommendation to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee, including the text of an amendment that effectuates the recommendations. The commission's report must be a detailed, comprehensive, and careful evaluation of the state's tax system structure. The commission's report shall consider:

(a) sales and use tax exemptions or limitations to be retained, modified or repealed;

(b) the assessment of state and local taxes levied and other provisions affecting state and local revenue to fund the operation and responsibilities of state and local government, respectively; and

(c) at the discretion of the commission, any fee, fine, or forfeiture.

Following the report and recommendation required by subsection (C)(2), the commission shall continue studying the subjects identified in subsection (C)(2). The commission may make further legislative recommendations at any time. Also, the commission must submit a report to the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee on August first and February first of each year detailing the commission's progress and points of focus.

For purposes of the scope of the commission's study, local taxes are defined as local levies related to ad valorem taxation, including, but not limited to, assessment ratios, classification and valuation of property, assessable transfers of interest, valuation limitation, local millages, and fee in lieu of taxes agreements.

The commission's report may not recommend any action that would nullify any existing agreement entered into by a local government.

(D) The text of the amending language required in subsection (C)(2) must be delivered to the Code Commissioner who must take steps to prepare the substance of the amendment to be enrolled and engrossed in the Code of Laws with the provisions of the amendment to take effect January 1, 2012, if the report is approved by enactment of a joint

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resolution which deals exclusively with the single subject and question of approval of the report and the associated amendment, in its entirety. The legislation containing the amendment to enact the recommendations of the report made by the commission must be introduced in both houses by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee. An amendment is germane to legislation recommended by the commission only if the amendment seeks to make a technical change necessary to effectuate the purpose of the particular provision to be amended. An amendment that seeks to add, delete, or substantively change a recommendation or other provision affecting state revenue included in any legislation recommended by the commission may only be adopted or concurred in by a three-fifths majority of those present and voting in each respective house.

(E) Further legislative recommendations made by the commission must be introduced in both houses by the Chairman of the Senate Finance Committee and the Chairman of the House Ways and Means Committee respectively.

SECTION 2. Act 388 of 2006 is amended by repealing SECTION 1 of Part V, which reads:

“SECTION 1. (A) The sales tax exemptions in Section 12-36-2120 of the 1976 Code shall be reviewed by the General Assembly not later than its 2010 session and thereafter as the General Assembly deems appropriate but not later than its session every ten years after the first review.

(B)(1) There is established the Joint Sales Tax Exemptions Review Committee composed of seven members; three of whom must be members of the Senate appointed by the Chairman of the Senate Finance Committee, one of whom must be a member of the minority party; three of whom must be members of the House of Representatives appointed by the Chairman of the House Ways and Means Committee, one of whom must be a member of the minority party; and one of whom must be the Governor or the Governor's appointee who shall serve at the Governor's pleasure. The committee shall elect a chairman and vice chairman from among its members. All legislative members shall serve ex officio. The committee shall assist the General Assembly in performing its duties under the provisions of subsection (A) in addition to its duties required by this subsection.

(2) In carrying out its responsibilities under this act, the committee shall:

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(a) make a detailed and careful study of the State's sales tax exemptions, comparing South Carolina laws to other states;

(b) publish a comparison of the State's sales tax exemptions to other states' laws;

(c) recommend changes, and recommend introduction of legislation when appropriate;

(d) submit reports and recommendations annually to the Governor and the General Assembly regarding sales tax exemptions.

(3) In carrying out its responsibilities under this act, the committee may:

(a) hold public hearings;

(b) receive testimony of any employee of the State or any other witness who may assist the committee in its duties;

(c) call for assistance in the performance of its duties from any employee or agency of the State.

(4) The committee may adopt by majority vote rules not inconsistent with this act that it considers proper with respect to matters relating to the discharge of its duties under this section. Professional and clerical services for the committee must be made available from the staffs of the General Assembly, the State Budget and Control Board, and the Department of Revenue. The members of the committee may not receive mileage, per diem, subsistence, or any form of compensation for their service on the committee."

SECTION 3. This act takes effect upon approval by the Governor./

Renumber sections to conform.

Amend title to conform.

Amendment No. 5

Senator MULVANEY proposed the following Amendment No. 5 (12R009.VAS), which was adopted:

Amend the bill, as and if amended, SECTION 1, by adding an appropriately numbered paragraph to read:

/ () Commission members shall not receive information regarding the business of the commission from a lobbyist except through formal presentation to the commission at a meeting called in compliance with Section 30-4-10, et seq. /

Renumber sections to conform.

Amend title to conform.

Senator MULVANEY explained the amendment.

Senator HUTTO spoke on the amendment.

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The amendment was adopted.

The question then was the second reading of the Bill.

The "ayes" and "nays" were demanded and taken, resulting as follows:

Ayes 38; Nays 2

AYES

| | | |
|-------------------|-------------------|------------|
| Alexander | Anderson | Bright |
| Bryant | Campbell | Cleary |
| Coleman | Cromer | Davis |
| Elliott | Fair | Ford |
| Grooms | Hutto | Jackson |
| Knotts | Land | Leatherman |
| Leventis | Lourie | Malloy |
| <i>Martin, L.</i> | <i>Martin, S.</i> | Massey |
| McConnell | McGill | Mulvaney |
| Nicholson | Peeler | Rankin |
| Reese | Scott | Setzler |
| Sheheen | Shoopman | Thomas |
| Verdin | Williams | |

Total--38

NAYS

| | |
|---------|--------|
| Courson | Ryberg |
|---------|--------|

Total--2

The Bill was read the second time, passed and ordered to a third reading.

The Bill was returned to the Special Order Calendar.

Statement by Senator RYBERG

I voted against second reading of S. 12 because the Bill contains no prohibition against a recommendation by the proposed commission for a tax increase. I will not sanction a body that will contemplate a tax

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increase on South Carolinians. The problem with our tax code is not that it generates too little revenue, and I will not endorse any suggestion that our problem is a lack of money in Columbia.

MOTION ADOPTED

On motion of Senator HAYES, ALEXANDER, ANDERSON, BRIGHT, BRYANT, CAMPBELL, CAMPSER, CLEARY, COLEMAN, COURSON, CROMER, DAVIS, ELLIOTT, FAIR, FORD, GROOMS, HUTTO, JACKSON, KNOTTS, LAND, LEATHERMAN, LEVENTIS, LOURIE, MALLOY, *MARTIN, L.*, *MARTIN, S.*, MASSEY, MATTHEWS, MCCONNELL, MCGILL, MULVANEY, NICHOLSON, O'DELL, PEELER, PINCKNEY, RANKIN, REESE, ROSE, RYBERG, SCOTT, SETZLER, SHEHEEN, SHOOPMAN, THOMAS, VERDIN AND WILLIAMS, with unanimous consent, the Senate stood adjourned out of respect to the memory of Mrs. Suzanne "Sue" Selikowitz Kirsh of Clover, S.C., beloved wife of our colleague and friend, Representative Herb Kirsh.

and

MOTION ADOPTED

On motion of Senators MCGILL and CLEARY, with unanimous consent, the Senate stood adjourned out of respect to the memory of Lou Ann Robinson, Shaquatia Lynette Robinson and Rishard Lennis Pyatt of Sandy Island in Georgetown County, S.C.

ADJOURNMENT

At 5:11 P.M., on motion of Senator MCCONNELL, the Senate adjourned to meet tomorrow at 11:00 A.M.

* * *

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